

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARCHIE COMIC PUBLICATIONS, INC.,

Plaintiff,

-against-

KENNETH W. PENDERS, II,
p/k/a/ KEN PENDERS,

Defendant.

Case No. 10-cv-8858 (RMB)

Electronically Filed

**NOTICE OF DEFENDANT'S MOTION TO DISMISS
COMPLAINT FOR LACK OF PERSONAL JURISDICTION,
OR IN THE ALTERNATIVE TO TRANSFER PROCEEDINGS**

PLEASE TAKE NOTICE THAT defendant Kenneth W. Penders, II ("Penders") by undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(2), will move for an order dismissing the Complaint for lack of personal jurisdiction.

PLEASE TAKE FURTHER NOTICE THAT, in the alternative, Penders by undersigned counsel and pursuant to 28 U.S.C. § 1404 will move to transfer venue of the above-captioned action to the United States District Court for the Central District of California.


Penders bases this motion upon this Notice of Motion, the accompanying Memorandum of Law, and the declaration of Kenneth Penders filed concurrently with this motion.

Dated: February 8, 2011

LYSAGHT, LYSAGHT & ERTEL LLP

New York, New York

By

A handwritten signature in black ink, appearing to read 'M. R. Ertel', written over a horizontal line.

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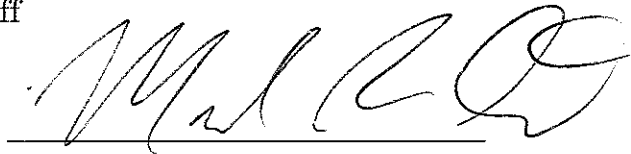
*Attorneys for Defendant Kenneth
W. Penders, II*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of February, 2011, a copy of the foregoing Motion to Dismiss Complaint for Lack of Personal Jurisdiction, or in the Alternative to Transfer Proceedings, the Memorandum in support, the Declaration of Kenneth Penders, and the proposed Order, were sent via first-class mail to:

Matthew C. Wagner
Diserio Martin O'Connor & Castiglioni LLP
50 Main Street, Suite 1000
White Plains, NY 10606

Counsel for Plaintiff

A handwritten signature in black ink, appearing to read "M. C. Wagner", is written over a horizontal line.